

SERVICE DATE – NOVEMBER 14, 2017

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 303 (Sub-No. 49X)

WISCONSIN CENTRAL LTD.—DISCONTINUANCE OF SERVICE EXEMPTION—
IN ONEIDA AND MARINETTE COUNTIES, WIS.

Digest:¹ This decision denies as moot a petition for clarification and/or reconsideration of a discontinuance exemption.

Decided: November 13, 2017

Wisconsin Central Ltd. (WCL)² has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over a portion of its line of railroad extending approximately 49.0 miles from milepost 220.0 on its Bradley Subdivision in Rhinelander, Oneida County, Wis.,³ to milepost 269.0 on its Pembine Subdivision at Goodman, Marinette County, Wis. (the Line). Notice of the exemption was served and published in the Federal Register on October 16, 2017 (82 Fed. Reg. 48,146). The exemption is scheduled to become effective on November 15, 2017.

On October 25, 2017, the Northwoods Rail Transit Commission and Wisconsin Central Group (collectively, NRTC) filed a timely petition for clarification and/or reconsideration. NRTC states that WCL's verified notice of exemption does not indicate whether the Line's rail infrastructure will remain in place during the discontinuance. (NRTC Pet. 5.) NRTC asks the Board to expressly confirm that the exemption does not permit WCL to remove the Line's rail infrastructure except as may be reasonably necessary for protection and maintenance of the property and with minimum impact on the potential for returning the Line to active service. Id. at 10.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² WCL is a wholly owned subsidiary of Canadian National Railway Company.

³ In an October 27, 2017 filing, WCL notes that its verified notice of exemption included an error, referring to Waupaca County, Wis., when WCL intended to refer to Oneida County, Wis. The reference to Waupaca County, which also appeared in the Board's October 16, 2017 notice of exemption, will be corrected in a subsequent notice.

WCL filed a reply on October 27, 2017. In its reply, WCL states that it interprets NRTC's filing as seeking assurance that WCL will not remove the Line's rail infrastructure except as described by NRTC in its petition. In response to this concern, WCL states that it has advised NRTC's counsel that its "intentional use of the class exemption to discontinue its common carrier service obligation—rather than to abandon the line—speaks for itself, as does the absence here of an environmental and historic report. The content of the Exemption Notice filing and agency discontinuance precedent should be clarification enough." (WCL Reply 1-2.)

The Board interprets WCL's response as providing the assurance NRTC seeks that WCL will not remove rail or other infrastructure from the Line during the discontinuance, except as may be reasonably necessary for protection and maintenance of the property and with minimum impact on the potential for returning the Line to active service. Given these statements, NRTC's petition will be denied as moot.

It is ordered:

1. NRTC's petition is denied as moot.
2. This decision is effective on its date of service.

By the Board, Board Members Begeman and Miller.